



Legislative Commission on Indian Services Meeting

Summary meeting minutes

Meeting Date: Tuesday, August 30, 2016

Meeting Location: Seven Feathers Resort, Grape Room, Canyonville, OR

Called to Order: The meeting was called to order at 9:12 am by LCIS Chair

Adjourned: The meeting was adjourned at 3:10 pm by the LCIS Chair

Members Present:

Dee Pigsley, LCIS Chair (Siletz)

Dan Courtney, LCIS Vice-Chair (Cow Creek)

Cheryle Kennedy (Grand Ronde)

Brenda Meade (Coquille)

Jarvis Kennedy (Burns Paiute)

Don Gentry (Klamath)

*Brigette McConville -sitting in for Raymond Tsumpti (Warm Springs)

Senator Arnie Roblan

Representative Duane Stark

Jackie Mercer (non-voting LCIS appointee)

Members Absent:

Mark Ingersoll (Coos, Lower Umpqua and Siuslaw) (excused)

Members Absent: (cont'd)

Justin Quaempts (Umatilla) (excused)

Senator Ted Ferrioli (excused)

Representative Caddy McKeown (excused)

Staff Present:

Karen Quigley, LCIS Executive Director

In attendance:

Robert VanNorman, Cow Creek

George T. Rondeau, Cow Creek

George Lopez, Klamath Tribes

Andrea Chiapella, Sen Ferrioli's Office

Tayleranne Gillespie, Sen Ferrioli's Office

Daniel Santos, Willamette College of Law

Introduction of LCIS Members and Attendees.

Welcome by LCIS Chair and additional Welcome by LCIS Vice Chair and Host, Dan Courtney, on behalf of the Cow Creek Band of Umpqua Tribe of Indians and Seven Feathers Resort.

No Additions to the agenda

Chair calls for consideration of adoption of May 18th meeting minutes. Cheryle requests time to review and clarification. Members have opportunity to review and then Cheryle makes motion to adopt. Seconded and adopted without dissent.

Staff Report:

Executive Director report: Karen goes and discusses background materials provided to LCIS Members including upcoming schedule of state-tribal cluster/workgroup meetings (Attachment 1), document providing examples of state agency & tribal government contacts with Executive Director over last two months (Attachment 2), Responses from State agency cluster coordinators on status of respective clusters: DHS, OHA, Cultural resources, public safety, and economic development & community services (Attachment 3), two documents provided by the Indian Education Specialist at the Oregon Dept of Education-Legislative Concept dealing with Tribal History and Sovereignty Curriculum (Karen pointed out the astonishing fact pointed out in the concept in terms of "need" that a survey of 1,000 public school teachers were asked to name the 9 federally recognized Tribes in Oregon and less than 1% was able to do so) and the discussion draft of the Dept of Education Tribal Consultation and Collaboration policy (Attachment 4), draft legislative concept submitted by Oregon Emergency Management which would allow tribal governments to "opt in" to a process that establishes "resource sharing" among

various governmental agencies when one government or another is overwhelmed during a major disaster like a Cascadia Event (Attachment 5) Three additional items were discussed by Karen: Request for Tribes' input on planned 2017-2019 State Capitol History Gateways window exhibit at the State Capitol "Celebrating Oregon's Cultural Diversity." (Brief Background document prepared by Karen- Attachment 6) , Legislative Branch agency/LCIS Executive Director Roles and Responsibilities document (Attachment 7) and document with proposed workplan for 2016-2018 (Attachment 8). Discussion with LCIS Members about topics in Karen's materials and remarks including the possibility of consideration of consistent statutory language to define "federally recognized Tribe in Oregon" (Karen recalled either in law school or at some other point hearing of a court case in which a Tribe is said to be a "Tribe" in the State in which its reservation is located. Senator Roblan said he would ask his niece, currently a law student, if she would research to find the citation). It may be helpful going forward to have a definition along the lines: A federally recognized Tribe in Oregon is a federally recognized Tribe whose governmental headquarters or primary governmental center is within the State of Oregon. The discussion arose due to a somewhat confusing definition currently in the draft consultation policy of Oregon's Dept of Ed. Karen also asked LCIS Members to indicate whether she could provide guidance to the Director of Oregon Emergency Management about going forward with the legislative concept proposed by OEM dealing with inter-governmental sharing of resources in the event of major disasters. LCIS Members indicated that since the tribal participation was "opt in," there was no reason the legislative proposal could not go forward and each tribal government would make its own decision regarding participation after more discussion with OEM and others. Karen would relay that message to OEM's Director.

Commission Member Reports: LCIS Vice Chair Dan Courtney thanked everyone for coming and mentioned Cow Creek's recent elections. He and one other incumbent were reelected. They have been dealing with budgets, community conversations with the Oregon department of Education, hosted a Town Hall for the Department of Human Services, participated in a Cascadia Preparedness Exercise, have established 3 Lending Library kiosks including at the Tribal Office and the Housing Office. This summer they have conducted lots of children workshops: arts, computers, drumming and other traditional cultural activities.

Invited Speaker: Deanna Henry of the Oregon Department of Energy provided a powerpoint presentation on the State's Plan for Fuel Allocation (including to Tribal Governments) during a major disaster (Cascadia event) (on the LCIS website). Cheryle asked about the impact on the Columbia River. Deanna discussed how the Or Dept of Energy and OEM are working with tribal emergency planners and would be happy to come out to speak at any tribal event.

(State-Tribal public safety cluster will be having this powerpoint at their next meeting; the cultural resources had it at their most recent).

Invited Speakers: Tim Simmons, US Attorney's Office and Patrick Flanagan, Or Department of Justice Office of Environmental and Cultural Resources Prosecution.

Tim started off by saying he and Patrick were there to discuss whatever LCIS would like them to talk about. Karen mentioned it would be helpful if they could share experience in training judges and others involved in cultural resources as well as thoughts on strengthening protections for burials, sacred sites and archaeological items of importance to Tribes. Tim touched on training he's been involved with federal judges and how Tribes have been exceptional in educating certain judges about the importance of culture and cultural items as part of sentencing in some cultural resource crime prosecutions. Tim also mentioned training by US Attorney's Office for federal law enforcement. Tim touched on some successful "education" opportunities with grand juries.

Patrick indicated he has mainly worked with law enforcement—state police and has also done some training at the police academy. He has had some good experience working with some local prosecutors who are interested in getting his advice or assistance in prosecuting these cases and then there have been some others not interested at all. Patrick said he hadn't done much with judges. Karen asked if he was in contact with the newly formed Tribal Court Judges-State Court Judges Forum. He said "no" but he certainly would be interested. Karen to provide contact in State Judicial Department.

Patrick provided LCIS Members with excerpts from current Oregon laws with an emphasis on when Tribes are required to be notified.(Attachment 8) Patrick's main suggestion was that current law appears to not have a mandatory tribal notification provision under "objects held unlawfully considered contraband" provisions which has resulted in—at least one recent case in which a several inch ceremonial blade was returned to the individual from whom it was seized prior to state police involved in the original seizure of the object from the individual or appropriate Tribes were aware that the object was being returned because "there was no other person claiming it." Patrick's suggestion was that "notice to Tribes" (and state police) in these instances might be exceedingly helpful in getting objects returned to Tribes.

Tim mentioned the potential hazard of opening up the cultural resources laws for a specific purpose without an appreciation for the fact that current provisions that are viewed as important could be subject to change or elimination by other interests. Tim talked about how federal law has some significant "teeth" like Archaeological Resources Protection Act (ARPA) and NAGPRA (Native American Graves Protection and Repatriation Act) but what is often incredibly effective in federal cases is "theft of federal property." State law does not have an equivalent. Federal law also has some drawbacks in terms of a definition requiring proof that an object is at least 100 years old, statute of limitation issues and the penalty differences in statutes: NAGPRA-misdemeanor, ARPA-felony. Another issue is the issue of long term curation when items are seized as well as best way to have discussion with appropriate Tribes. Patrick touched on some bright spots in state law—no damage assessment necessary and violations of 97.740(5)(a) can be a class C felony.

Patrick elaborated on the interest on the state-side in terms of follow-through is bottom up. State police have been willing to learn more and be engaged. Patrick also attempts to alert those who attend the District Attorney's Annual Conference.

Both agreed on the need for more resources and more training.

Tim and Patrick both mentioned they would answer any questions or be available in the future.

Invited Speaker: Nancy Nelson, Oregon State Parks Archaeologist

Nancy was asked to provide a status report on a 2003 Oregon State Parks policy that allows members of federally recognized Tribes in Oregon to access state parks without a fee to perform ceremonies or to gather or collect traditional plants. Parks has record of only 2 such formal “permits” one for Rooster Rock, one for Bob Straub. It is likely individual Park managers handle this on a more informal basis. Nancy did relate that her fellow archaeologists/Region Managers are interested in revising this policy to use it as a springboard to partner more with Tribes. There is one MOA (with the Coquille) to collect camas but Parks would be very interested in building relationships to enhance their stewardship of park lands by working with and learning from Tribes, e.g., about traditional native plants to the area. Parks want to encourage interaction with Tribes.

LCIS Members asked if there were training for campground hosts on this access policy (Nancy thought not—but that it was a good idea). It was also brought up that there should be a decal at each park describing the policy—good way to educate visitors.

LCIS Members seemed to appreciate the goal to avoid inadvertent damage. Nancy hoped it was not really a “permit” but more like collaborative notification. She stressed biologists want to work with Tribes and learn more to see if active management of traditional plants will improve park habitat. She wants park rangers to spread the word and also confirmed with LCIS Members that it was not a problem to ask for tribal id insofar as the access is for members of Oregon Tribes.

Invited Speaker: Nancy Hirsch, Deputy State Forester and Carlos Rodriguez,

Nancy thanked LCIS Members for the opportunity to talk with them. She mentioned Keith Baldwin who was with her—longtime forestry employee who works with private landowners as well as long time member of the state-tribal cultural resources cluster. She also introduced Carlos Rodriguez, ODF’s new organizational manager.

Nancy mentioned changes at ODF administration. Doug Decker, who many of the Tribes know, is retiring as State Forester. The Board of Forestry has two strong candidates as finalists and will make their decision soon. Notwithstanding the changes, ODF remains committed to building its relationships with each of the Tribes in Oregon.

Nancy was asked to touch on the current fire season. She indicated that—at this point—it has been milder than the last season or two. ODF did work with the Umatilla on a fire in NE Oregon and was fortunate to be able to have the Umatilla Board of trustees tour the site. ODF is very committed to training on cultural resources.

Carlos was introduced by Nancy. He gave a little background about himself and expressed his commitment starting with the 2017 New Employee Orientation to include government-to-government training and to emphasize the need for positive interactions with Tribes to protect cultural resources.

Carlos requested guidance from LCIS and Tribes on how best to do his job in terms of stressing working with Tribes and protecting cultural resources.

The Chair thanked all the Speakers.

Break for lunch and honoring of Danny Santos, retiring. Danny served four different Governors and worked hard at promoting positive working relationships with tribal governments.